

RESOLUTION NO. Z-22-98

WHEREAS, JOSE VALLEJO & WILLIAM R. YONKER had applied to Community

Zoning Appeals Board 12 for the following:

- (1) EU-1 to RU-1M(a)
- (2) NON-USE VARIANCE OF ZONING & SUBDIVISION REGULATIONS requiring lots to have frontage on a public street and requiring each lot to have access to a public street; to waive same to permit 6 proposed lots to front on an access easement and to have access to a public street by means of an access easement.
- (3) NON-USE VARIANCE OF LOT FRONTAGE REQUIREMENTS to permit 6 proposed lots with 0' of frontage (50' required).
- (4) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit two proposed residences setback 22' (25' required) from the front (north) property lines.
- (5) NON-USE VARIANCE OF ZONING REGULATIONS requiring the applicant to secure from the easement owner a written statement that the existing and proposed structures, installed in the existing and proposed manner, will not interfere with the owner's reasonable use of the easement; to waive same to permit an existing structure, an existing gate, and a proposed wood fence in the utility easement without the consent of the easement owner.

Plans are on file and may be examined in the Zoning Department entitled "Morning Star Manor," as prepared by Jose Fuxa, P.S.M., dated stamped received 7-7-97. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lots 5 & 6 of KIRK ACREAGE SUBDIVISION, Plat book 47, Page 59.

LOCATION: Lying east of S.W. 89 Court, approximately 100' south of theoretical S.W. 69 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 was advertised and held on January 29, 1998, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, at which time the applicant proffered a Declaration of Restrictions which among other things provided for the development of the above-described property with a total of eight dwelling units, and to be in substantial accordance with the plans submitted and prepared by, Jose E. Fuxa, P.S.M., entitled "Morning Star Manor", stamped received and dated the 7th day of July, 1997, and

WHEREAS, upon due and proper consideration having been given to the matter, it was the opinion of Community Zoning Appeals Board 12 that the requested district boundary change to RU-1M(a) (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the non-use variance of zoning & subdivision regulations (Item #2), the non-use variance of lot frontage requirements (Item #3), non-use variance of setback requirements (Item #4), and the non-use variance of zoning regulations (item #5), would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should not be accepted, and said application was denied with prejudice by Resolution CZAB12-1-98, and

WHEREAS, JOSE VALLEJO & WILLIAM R. YONKER appealed the decision of Community Zoning Appeals Board 12 to the Board of County Commissioners, Dade County Florida, and at the hearing on March 31, 1998 the matter was remanded with leave to amend for the purpose of a new hearing before Community Zoning Appeals Board 12, and

WHEREAS, JOSE VALLEJO & WILLIAM R. YONKER applied to Community Zoning Appeals Board 12 for the following:

- (1) EU-1 to RU-1
- (2) NON-USE VARIANCE OF ZONING REGULATIONS to permit the front building line of an existing residence to exceed 50' from the front (west) property line.

Plans are on file and may be examined in the Zoning Department entitled "Morning Star Manor," as prepared by Jose Fuxa, P.S.M., dated stamped received 3-24-98. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lots 5 & 6 of KIRK ACREAGE SUBDIVISION, Plat book 47, Page 59.

LOCATION: Lying east of S.W. 89 Court, approximately 100' south of theoretical S.W. 69 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 was advertised and held on May 28, 1998, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it was the opinion of Community Zoning Appeals Board 12 that the requested district boundary change to RU-1 (Item #1), would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the non-use variance of zoning regulations (Item #2), would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and said application was denied without prejudice by Resolution No. CZAB12-14-98, and

WHEREAS, JOSE VALLEJO & WILLIAM R. YONKER appealed the decision of Community Zoning Appeals Board 12 to the Board of County Commissioners, Dade County Florida, and a public hearing was advertised and held, upon notice, as required by the Zoning Procedure Ordinance, and

WHEREAS, after reviewing the record and decision of Community Zoning Appeals Board 12 and after having given an opportunity for interested parties to be heard, it is the opinion of this Board that the grounds and reasons specified in the appeal were insufficient to merit a reversal of the ruling made by Community Zoning Appeals Board 12 in Resolution No. CZAB12-14-98, and that the appeal should be denied and the decision of Community Zoning Appeals Board 12 should be sustained, and

WHEREAS, a motion to deny the appeal and sustain the decision of Community Zoning Appeals Board 12 was offered by Commissioner Javier D. Souto, seconded by Commissioner

Miguel Diaz de la Portilla, and upon a poll of the members present the vote was as follows:

Miriam A. Alonso	nay	Jimmy L. Morales	aye
Bruno A. Barreiro	nay	Dennis C. Moss	aye
Barbara M. Carey	absent	Pedro Reboredo	nay
Miguel Diaz de la Portilla	aye	Dorrin D. Rolle	aye
Betty T. Ferguson	absent	Katy Sorenson	aye
Natacha S. Millan	nay	Javier D. Souto	aye

Chairperson Gwen Margolis absent

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners,
Miami-Dade County, Florida, that the appeal, be and the same is hereby denied and the
decision of Community Zoning Appeals Board 12 is sustained, and

BE IT FURTHER RESOLVED, that Resolution No. CZAB12-14-98 shall remain in full
force and effect.

BE IT FURTHER RESOLVED, that Resolution No. CZAB12-1-98 is hereby null and
void.

The Director is hereby authorized to make the necessary notations upon the maps and
records of the Miami-Dade County Department of Planning, Development.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 21st day of
July, 1998.

No. 97-7-CC-15
SW

MIAMI-DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
KAY SULLIVAN
by Harvey Ruvin, Clerk
Deputy Clerk

**THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY
COMMISSIONERS ON THE 5th DAY OF August, 1998.**

RESOLUTION NO. CZAB12-1-98

WHEREAS, JOSE VALLEJO & WILLIAM R. YONKER had applied for the following:

- (1) EU-1 to RU-1M(a)
- (2) NON-USE VARIANCE OF ZONING & SUBDIVISION REGULATIONS requiring lots to have frontage on a public street and requiring each lot to have access to a public street; to waive same to permit 6 proposed lots to front on an access easement and to have access to a public street by means of an access easement.
- (3) NON-USE VARIANCE OF LOT FRONTAGE REQUIREMENTS to permit 6 proposed lots with 0' of frontage (50' required).
- (4) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit two proposed residences setback 22' (25' required) from the front (north) property lines.
- (5) NON-USE VARIANCE OF ZONING REGULATIONS requiring the applicant to secure from the easement owner a written statement that the existing and proposed structures, installed in the existing and proposed manner, will not interfere with the owner's reasonable use of the easement; to waive same to permit an existing structure, an existing gate, and a proposed wood fence in the utility easement without the consent of the easement owner.

Plans are on file and may be examined in the Zoning Department entitled "Morning Star Manor," as prepared by Jose Fuxa, P.S.M., dated stamped received 7-7-97. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lots 5 & 6 of KIRK ACREAGE SUBDIVISION, Plat book 47, Page 59.

LOCATION: Lying east of S.W. 89 Court, approximately 100' south of theoretical S.W. 69 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided for the development of the above-described property to a total of eight dwelling units. Said development shall be in substantial accordance with the plans submitted and prepared by, Jose E. Fuxa, P.S.M., entitled Morning Star Manor, stamped received and dated the 7th day of July, 1997, and

WHEREAS, upon due and proper consideration having been given to the matter, it was the opinion of this Board that the requested district boundary change to RU-1M(a) (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the non-use variance of zoning & subdivision regulations (Item #2), the non-use variance of lot frontage requirements (Item #3), non-use variance of setback requirements (Item #4), and the non-use variance of zoning regulations (Item #5), would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should not be accepted, and

WHEREAS, a motion to reject the proffered covenant and deny the application with prejudice was offered by Maria R. De La Portilla, seconded by Lorraine Grigsby, and upon a poll of the members present the vote was as follows:

Maytee D. Armesto	aye	Lorraine Grigsby	aye
Peggy Brodeur	aye	Larry Harris	nay
Maria R. De La Portilla	aye	Ana-Maria Schwartz	absent
Maureen O'Donnell	aye		

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 12, that the requested district boundary change to RU-1M(a) (Item #1) be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that the application be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that the proffered covenant be and the same is hereby rejected.

The Director is hereby authorized to make the necessary notations upon the maps and records of the Miami-Dade County Department of Planning, Development and Regulation.

PASSED AND ADOPTED this 29th day of January, 1998.

Hearing No. 97-7-CC-15
es

This instrument prepared by
and when recorded return to:
Jerry B. Proctor,, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
200 South Biscayne Boulevard, Suite 2500
Miami, Florida 33131-2336

(Space Above For Recorder's Use Only)

DECLARATION OF RESTRICTIONS

KNOW ALL BY THESE PRESENTS that the undersigned, Owner(s) of the following described property (the "Property"), lying, being and situated in Miami-Dade County, Florida, to-wit:

A portion of Lot 4 of KIRK ACREAGE according to the plat thereof as recorded in Plat Book 47 at Page 59 of the Public Records of Dade County, Florida being more particularly described as follows:

Begin at the Northwest corner of said Lot 4; thence run N 87°03'28"E along the North line of said Lot 4 for a distance of 372.345 feet; thence run S36°40'41"W for a distance of 129.80 feet to a point on the South line of said Lot 4; thence run S 87°03'10" W along the South line of said Lot 4 for a distance of 289.285 feet; thence run N03°06'08"W along the West line of said Lot 4 for a distance of 100.00 feet to the POINT OF BEGINNING containing 0.76 acre more or less.

IN ORDER TO ASSURE the County that the representations made by the owner during consideration of Public Hearing No. 02-266 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

- (1) That the Property will be developed with fee simple residential units and will not be developed as a rental community.
- (2) That a concrete block wall, a minimum of five (5) feet in height, with trees at a maximum spacing of 25 feet on center apart, of a type and size approved by Miami-Dade County will be placed along the north property line prior to the issuance of any Certificates of Use and Occupancy for residential units on the Property.
- (3) That the Property will be developed with a maximum of ten (10) residential units, including the purchase of any necessary Severable Use Rights (SURs).
- (4) That any building(s) on the Property will be no more than two (2) stories in height.
- (5) That any building(s) on the Property will be setback a minimum of 35 feet from the side (north) property line.

County Inspection. As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to we being complied with.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, or other procedure permitted under the Miami-Dade County Code, whichever by law has jurisdiction over such matters, after public hearing, if required. Should this Declaration of Restrictions be so modified, amended, or released, the Director of the Department of Planning and Zoning or his successor, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies

available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of anyone of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect.

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost to the Owner following the adoption by the Miami-Dade County Board of County Commissioners or Community Zoning Appeals Board of a resolution approving the application.

[SIGNATURE NEXT PAGE]

Signed, sealed, executed and acknowledged this 1st day of April 2003.

Witnesses:

[Signature]
Print Name: Jerry Proctor

[Signature]
Print Name: Ibis Diaz

RAMIX CONSTRUCTION CO.,
A Florida Corporation.

By [Signature]
Frank Aixala, Vice-President

STATE OF Florida)
COUNTY OF Dade) SS:

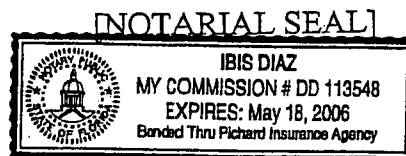
The foregoing instrument was acknowledged before me this 1st day of April, 2003 by Frank Aixala, as Vice-President of Ramix Construction Co. He/She is personally known to me or produced FL.D.L. as identification.

Sign Name: [Signature]
Print Name: Ibis Diaz

My Commission Expires:

NOTARY PUBLIC

Serial No(none, if blank): _____



OPINION OF TITLE

To: Miami-Dade County Department of Planning and Zoning

With the understanding that this Opinion of Title is furnished to MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING, Florida, as inducement for acceptance of a Declaration of Use/Unity of Title/Development Agreement covering the real property hereinafter described, it is hereby certified that I have examined Attorneys' Title Insurance Fund, Inc., Title Commitment, together with certified computer search covering the period from the effective date of the Commitment through 4/15/03 inclusive, of the following described real property:

A portion of Lot 4 of KIRK ACREAGE according to the Plat thereof as recorded in Plat Book 47 at Page 59 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows: BEGIN at the northwest corner of said Lot 4; thence run N 87°03'28"E along the North line of said Lot 4 for a distance of 372.345 feet; thence run S 36°40'41"W for a distance of 129.80 feet to a point on the south line of said Lot 4; thence run S 87°03'10"W along the south line of said Lot 4 for a distance of 289.285 feet; thence run N 03°06'08"W along the west line of said Lot 4 for a distance of 100.00 feet to the POINT OF BEGINNING containing 0.76 acres more or less.

Basing my opinion on the evidence described above, I am of the opinion that on the last mentioned date the fee simple title to the above described real property was vested in:

RAMIX CONSTRUCTION CO., a Florida Corporation

Note: For Limited Partnership, Limited Liability Company or Joint Venture indicate parties comprising the Limited Partnership, Limited Liability Company or Joint Venture and identify who is authorized to execute.

Said examination reveals the following encumbrances, liens, and other exceptions:

1. RECORDED MORTGAGES:

None

2. RECORDED MECHANICS LIENS, CONTRACT LIENS, & JUDGMENTS:

None

3. GENERAL EXCEPTIONS:

- a) All taxes for the year in which this opinion is rendered, unless noted below that such taxes have been paid.
- b) Rights of persons other than the above owners who are in possession.
- c) Facts that would be disclosed upon accurate survey.
- d) Any unrecorded labor, mechanic's or materialmen's liens.
- e) Zoning and other restrictions imposed by governmental authority.

4. SPECIAL EXCEPTIONS:

- a) Real estate taxes and assessments for the year 2003 and subsequent years.

Therefore, it is my opinion that the following party(ies) must join in the agreement in order to make the agreement a valid and binding covenant on the lands described herein.

<u>Name</u>	<u>Interest</u>	<u>Special Exception</u>
Ramix Construction Co., a Florida corporation	Fee Simple Owner	

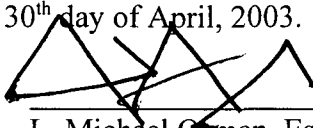
The following is a description of the Title update.

<u>Number</u>	<u>Company Certifying</u>	<u>No. of Entries</u>	<u>Period Covered</u>
Commitment No.CF0838276	Attorneys Title Insurance Fund, Inc.		Beg. to 1/10/03 at 11:00 p.m.
	Attorneys Title Insurance Fund, Inc.- Attorney Title Information Data System		1/10/03 to 4/15/03 At 11:00 p.m.

Opinion of Title
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I, the undersigned, further certify that I am an attorney-at-law duly admitted to practice in the State of Florida and a member in good standing of the Florida Bar.

Respectfully submitted this 30th day of April, 2003.

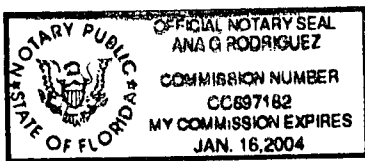


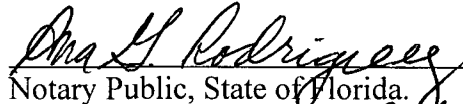
L. Michael Osman, Esquire
Florida Bar No. 257249
1474-A West 84 St., Hialeah, FL 33014
Telephone: (305) 823-1401

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 30th day of April, 2003, by L. Michael Osman, Esquire, who (☒) is personally known to me or who (☐) produced driver's license as identification.

My commission expires:




Notary Public, State of Florida.

Print Name: ANA G. Rodriguez